

Chesapeake Bay Local Assistance Board  
Monday, June 17, 2002  
Anchor Inn @ The Marina @ Marina Shores  
2100 Marina Shore Drive  
Virginia Beach, Virginia

Members Present:

Mr. L. Clifford Schroeder, Chairman  
Ms. Dama E. Rice, Vice Chairman  
Ms. Anna Lee Bamforth  
Mr. Frank L. Benser  
Mr. Robert J. Bannach  
Mr. Donald W. Davis  
Mr. Colin D. Cowling  
Mr. Daniel B. Nice

Members Absent:

Mr. Stuart Mendelson

Staff Present:

Acting Executive Director, C. Scott Crafton  
Administrative Assistant, Carolyn J. Elliott  
Principal Environmental Planner, Shepard Moon  
Principal Environmental Planner, Shawn Smith  
Principal Environmental Planner, Lee Tyson  
Senior Environmental Planner, Susan Haas  
Senior Environmental Planner, Robbie B. Rhur

Mr. Schroeder called the meeting to order at 10:07 a.m. He called the role. All members were present except Mr. Mendelsohn. Mr. Schroeder noted that there was quorum. Ms. Bamforth arrived at 10:15 a.m.

Mr. Schroeder called for the approval of the March 18, 2002 Board Meeting Minutes.

Ms. Rice motioned to approve the March 18, 2002 minutes as presented.

Mr. Bannach seconded the motion.

Mr. Schroeder called for further comments. There were none.

Mr. Schroeder called for the vote. All members voted aye.

Mr. Schroeder asked Mr. Crafton to present the Director's Report.

Mr. Crafton provided an update for the Board regarding the budget, and noted that the state tax revenues have been lower than expected, and agencies may be faced with further budget reductions during the next fiscal year, beyond the 7% already directed. He said the good news was that the Administration allowed agencies to pay up to 3% of next year's 7% reduction with unspent money from this fiscal year, and CBLAD had done that.

Mr. Crafton said that there was tremendous news regarding grants. He said that following the veto session, he asked the Department of Environmental Quality (DEQ) Director, Bob Burnley, and the Department of Conservation & Recreation (DCR) Director, Joe Maroon, if they would evaluate the possibility of reprogramming some federal grant funds from the annual Chesapeake Bay Implementation Grant and Coastal Zone Program Implementation Grant toward Tidewater local governments, to fulfill some of the grant requests that the Board had previously approved. Mr. Crafton went on to say that to establish good faith, he offered to start the process with \$60,000 in coastal grant fund that CBLAD was to get to hire an additional staff member to work on the new local implementation review process.

He went on to say that after some considerable deliberation and discussions with CBLAD Grants Manager, Margie Reynolds, DEQ and DCR agreed to collectively reprogram a total of \$231,055 toward Tidewater localities for Bay Act related grants. He said that this amount included the \$60,000 that CBLAD offered. He also advised that in addition, CBLAD had approximately \$40,000 of competitive grant funding left following the budget cut, and had committed those funds and some additional operational money to the two top priority requests. He noted that the grand total FY2003 to date was nearly \$275,000, and once the agency's budget situation for next year is clear, he would try to free some additional operations money for additional grant funding. He did say that he could not guarantee that would happen.

Mr. Crafton made it clear that this was a one-time opportunity to benefit from the grace of our sister agencies and NOAA, the federal agency that provides these grant funds, and should not be perceived or represented as a permanent source of alternative funding for CBLAD grants. He said that he would continue to work with Secretary Murphy, the Governor, and members of the General Assembly to restore grant funds for the program.

He explained that the Board had originally approved funding in the amount of \$572,000 to fund 24 projects that would have benefited 37 local governments, and the funding available now would fund 12 of those projects, benefiting 24 localities. He explained that staff were not able to follow the priority list straight from the top, due to differing criteria and priorities for the federal funding, however, most of the projects at the very top of the list would be funded.

Mr. Crafton closed the grants part of his presentation by saying that he considered the cooperation from our sister agencies unprecedented and wished to publicly acknowledge their help with this critical funding and say a hearty "Thank You" to Bob Burnley, Joe Maroon and their respective grants management staffs.

Mr. Crafton went on to discuss Personnel, noting that due to the reduction of grant funds for next fiscal year and the uncertainty regarding further cuts, he informed Dennis Cooke, a P-14 part-time employee handling the education and outreach efforts, that the agency would be unable to continue to fund his position beyond the end of this month. Mr. Crafton complimented Dennis who had been instrumental in preparing the first two issues of the new agency newsletter, and who had been responsible for making all the logistical arrangements for our Local Government workshop. Mr. Crafton also advised that this position would need to be re-tasked to one or more full-time staff.

Mr. Crafton next brought the Board up to speed on the Consolidation Consideration Process. He explained that Secretary Murphy had begun the process of evaluating the Natural Resource agencies regarding programs that have connections across agency lines. He said that Secretary Murphy had created a work group composed of the three agency Directors and Deputy Secretary David Paylor to begin this evaluation process, and that one meeting had been held to discuss the stormwater management program.

Mr. Davis asked when Secretary Murphy needed recommendations.

Mr. Crafton responded that he asked for them by mid July.

He also said that the Secretary intended to look at all overlaps among the Natural Resources agencies, and his plan was to conduct these evaluations with no pre-conceived outcomes. Mr. Crafton also explained that the first step was to make recommendations regarding what programs should be consolidated and how, and a later step would be to recommend where the consolidated programs should be located.

Regarding Legislative subjects, Mr. Crafton advised that he would be attending a legislative retreat with members of the House Agriculture, Chesapeake and Natural Resource Committee and the Natural Resource Subcommittee of the House Appropriations Committee on Monday & Tuesday, June 24 and 25 respectively. He said that he had been asked to make presentations regarding our agencies and program, and it was an opportunity to clarify some of the misunderstandings that he believed existed among key legislators regarding the Bay Act program. He said it would also be an opportunity for him to meet most of the legislators that have the most authority and oversight of our program.

Mr. Crafton said that he has been planning to continue Mr. Clower's commitment to meet with local government administrators and key legislators, and given the budget situation and the potential of consolidation, he was trying to cover more ground quickly. He also invited the Board members to accompany him to these meetings. Mr. Crafton advised that the first meeting had been scheduled for July 18 to visit the Northern Virginia Regional Commission and Mr. Mendelsohn had been invited.

Mr. Crafton went on to list the Planning District Commission that he would like to visit and advised the members that he contacted John Carlock from the Hampton Roads PDC to see about attending one of their Chief Administrative Officers' meetings.

Mr. Crafton briefly discussed progress on Implementing Regulation Amendments, and noted that staff had been working with their local government contacts to inform them of what will need to be changed in each of their local ordinances. He reminded everyone that localities have until March 1, 2003, to amend their local ordinances.

Mr. Crafton said that staff had been working hard to develop updated guidance documents pertaining to the amended regulations, and that another set of draft documents would be coming to the Board in late summer or early fall. He said that Martha Little would provide more information about this later.

Mr. Crafton advised that there were three Board positions due for appointment or reappointment on July 1<sup>st</sup>, and the Secretary of the Commonwealth's staff had informed him that Mr. Schroeder's slot, representing the Richmond Planning District, and Ms. Rice's slot, representing the Crater Planning District, would have new members appointed, since they have served two terms on the Board. He asked the members consider whom they would like to serve as the Board's Chairperson and Vice Chair person. He also said that Mr. Davis had indicated his interest in being reappointed to represent the Middle Peninsula.

Mr. Crafton closed his comments saying that the days meeting may likely be the last for Mr. Schroeder and Ms. Rice. He said that it had been a privilege to work with both of them for their entire tenure, and he wanted to personally say "Thank You" for their tireless service on behalf of this agency and program. He also reminded everyone that both had involved themselves in many efforts behind the scenes to assure that the Bay Act program got progressively better, and their absence will be felt. He said that he wished both of them the best in their next great adventures, and the he hoped they would consider visiting in the future.

Ms. Rice thanked members of the Board for their cooperation, Mr. Crafton, and staff and stated that it had been a pleasure to serve on the Board, and she had learned a lot. She said that she hoped that she had been able to give something back. She complimented Mr. Crafton and staff for the great job they have been doing. She also complimented the localities for their cooperation over the years. Mr. Schroeder stated that he seconded everything Ms. Rice said, and it had been his honor to serve on the Board.

Mr. Bannach thanked Mr. Crafton for CBLAD's audit report, and Mr. Crafton responded that in all the years, the Chief of Finance, Christine Edwards had never had a ding on the audit report. Mr. Schroeder commented that he thought CBLAD's audit report record should mean a lot during the discussions of merger.

Mr. Schroeder then asked Mr. Crafton what he thought the Board could do to help CBLAD. Mr. Crafton responded that he would like the members to see their legislators. Mr. Schroeder requested that Mr. Crafton put together an outline about CBLAD that could be used by all of the

Board members when they met with legislative and locality individuals. Mr. Crafton agreed to provide an outline.

Mr. Davis asked Mr. Crafton who the key legislators were, and Mr. Crafton responded that he would provide him a list.

Mr. Cowling asked who key people were in the Senate. Mr. Crafton responded that he would provide that list of individuals.

Mr. Crafton briefly discussed a telephone call from Senator Bolling asking Secretary Murphy why he had allowed CBLAD to take a million dollars out of the grants program. Mr. Crafton explained that the Secretary had advised Senator Bolling that CBLAD had followed the instruction they had been given by the General Assembly and faxed to Senator Bolling a copy of the page from the budget book. Mr. Crafton noted that it appeared that the legislators did not have all the information they needed to make a decision, and that a decision was simply made. Mr. Crafton also said it was fair to say that the legislators are hearing from local governments about the cuts to localities

Mr. Schroeder asked Mr. Crafton if he had any news from the Wilder Commission, and whether he could attend the meetings. Mr. Crafton and Ms. Rice responded that the meetings were public and that you could assume that Mr. Crafton could attend. Mr. Schroeder asked if Mr. Crafton found out when and where the Wilder Commission meetings were being held to please let the members know the dates, location and time. Mr. Crafton agreed to provide this information.

Mr. Davis and Ms. Rice expressed their concern over the cuts to the grant funding because they were relying on it to bring their programs into compliance, and a number of them are in a bind. Mr. Schroeder commented that it was this information that the members needed to say to the delegates.

Mr. Crafton briefly discussed the issue of tipping fees and the hope that if the legislation is approved that this money would assist the Natural Resource Agencies. He pointed out that nothing would be known about this until the General Assembly session in 2003.

Mr. Schroeder reminded everyone that the Chesapeake Bay Act was the original creation of Secretary Murphy and the agency had his full support

Mr. Schroeder noted that there were no Consent Items, and called for the presentation of Local Program Reviews, Phase II. He asked Ms. Haas to go ahead and present the program for Spotsylvania County because Mr. John Taylor, Long Range Planner, was in the audience.

Ms. Haas noted that in 1994 the Spotsylvania County Board of Supervisors adopted the Comprehensive Plan that staff reviewed for consistency with the Act and the Regulations. She said that in 1995 this Committee conducted a preliminary review of Spotsylvania County's Phase II Program and made seven recommendations for compliance, yet no deadline was established at that time.

She went on to say that in 1999, this Committee established a Phase II compliance date of June 30, 2000 for Spotsylvania County to adopt a Comprehensive Plan in compliance with the Act and the Regulations, and since that time, the County fell behind its work schedule and was not able to meet the deadline. She said that they received an extension and continued to work on the Draft Plan until September of 2000, when they realized that they had differences of opinion on their own Board that needed more time to address.

She stated that based on the extent of work completed and the timeline provided by the County, staff recommended to the Northern Area Review Committee that the County be granted an extension until December 31, 2001. She said that the Department received a copy of the 2000 Draft Spotsylvania Comprehensive Plan August 25, 2001, and yet, due to concerns expressed by County Board members, the County continued to restructure the Draft Plan further. She noted that Department staff continued to work with County staff to address the seven outstanding consistency conditions.

She said that the Department received the Draft Plan in late January 2002 and because she was out on maternity she was not available to review the Plan prior to February, so the County adopted the revised Plan on February 12, 2002 without a final review from the Department. She said that when she reviewed the Plan, focusing on the seven recommendations for consistency, she found that two recommendations still needed work.

She explained that Recommendation #5 asked for a general discussion of existing state and local ordinances and regulations, including forestry Streamside Management Zones and Recommendation # 7 required that the next Plan revision discuss any opportunities, which may exist for water quality improvement through redevelopment. She said that staff and the County continued to work together to develop the appropriate text that addressed these recommendations, however, the County Board of Supervisors had not yet adopted them.

Ms. Haas said that based on the significant amount of work completed, staff recommended that the Spotsylvania County Comprehensive Plan, adopted and amended by the Spotsylvania County Board of Supervisors on February 12, 2002, be found consistent with the Act the Regulations subject to the conditions that Spotsylvania County undertake and complete the two recommendations contained in the staff report no later than December 31, 2002.

Ms. Haas asked if there were any questions. There were none.

Mr. Schroeder recognized Mr. John Taylor and asked him if he had any comments. Mr. Taylor thanked Ms. Haas and staff for working with him on the comprehensive plan update and acknowledged that this was the first comprehensive plan the County did in house. He noted that there had been a change in their Board during the process and spent considerable time bringing the new Board up to speed and reaching consensus on what the plan should say as a growth management/environmental plan document. He said the goal was to reach a 2% growth rate annually, rather than the 4.5% they had been experiencing. He said that since the plans adoption, the County was at a 3.5% growth rate. He said that they intended to continue with the growth management concept and make the plan revisions by December 2002. He said that Ms. Haas had

already worked with him on the language, and they are ready to move forward to meet the two recommendations.

Ms. Rice asked Mr. Taylor if the County was prepared to meet the December 31, 2002 deadline. Mr. Taylor responded positively.

Mr. Schroeder called for a motion.

Ms. Rice motioned to find consistent with §10.1-2109 of the Act and §§9VAC10-20-60.3 of the Regulations subject to the condition that Spotsylvania County undertake and complete the two recommendations contained in the staff report no later than December 31, 2002.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

**June 17, 2002**

**RESOLUTION**

**LOCAL PROGRAM, PHASE II**

**SPOTSYLVANIA COUNTY - # 20**

**Determination of Consistency - Conditional**

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Area states that counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9VAC10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the element in subsection 3 shall be adopted by local governments; and

WHEREAS § 10.1-2103.10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS Spotsylvania County adopted a Comprehensive plan in 1994; and

WHEREAS on November 16, 1995, the Local Review Committee of the Northern Area approved a preliminary staff report which included seven recommendations for consistency to be addressed by the County but did not set a compliance date for the County; and

WHEREAS on October 26, 1999 the Local Review Committee of the Northern Area established a compliance date for the County of June 30, 2000 and then on September 18, 2000 extended it to December 31, 2000; and

WHEREAS due to circumstances beyond the County's control, including a turnover of the majority of the County's Board of Supervisors, the County requested an additional extension to December 31, 2001; and

WHEREAS on March 19, 2001 the Board reviewed the circumstances of the County, the comments of the staff, and extended the deadline to December 31, 2001; and

WHEREAS Spotsylvania County adopted a revised comprehensive plan on February 12, 2002;

WHEREAS staff has reviewed the Spotsylvania County comprehensive plan and its various components for compliance with the Act and Regulations; and

WHEREAS on May 14, 2002, the Local Review Committee of the Northern Area considered and evaluated the information contained in the staff report and supplemental information provided by the County and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Spotsylvania County's comprehensive plan consistent with § 10.1-2109 of the Act and § 9VAC10-20-60.3 of the Regulations subject to the condition that the County undertake and complete the following two recommendations through an amendment to its Comprehensive Plan prior to the next Plan revision, but no later than December 31, 2002:

1. The next Plan revision should discuss any opportunities that may exist for water quality improvement through redevelopment.
2. The next Plan revision should include a discussion of all existing state and local ordinances and regulations for forestry Streamside Management Zones, which protect stream corridors within Spotsylvania as part of the discussion on streambank erosion.

BE IT FINALLY RESOLVED that failure by Spotsylvania County to meet the above established compliance date of December 31, 2002 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and § 9VAC10-20-60.C of the Regulations and subject Spotsylvania County to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was accepted in open session on June 17, 2002 by the Chesapeake Bay Local Assistance Board.

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C. Scott Crafton  
Acting Executive Director  
Chesapeake Bay Local Assistance Department

Mr. Benser seconded the motion.

Mr. Schroeder called for further comments. There were none

Mr. Schroeder called for the vote. All members voted aye.

Mr. Schroeder asked Ms. Haas to continue with the presentation for Caroline County.

Ms. Haas began by advising that Caroline County's Comprehensive Plan was adopted by the Caroline County Board of Supervisors in June 1995, and was submitted to the Department for review in April 1996. She explained that after reviewing the Plan, staff recommended that the County address seven recommendations no later than July 1, 1999. She said that the County

experienced delays and was not able to achieve compliance by that date, and in 1999 the Board established a new deadline of December 31, 2001.

Ms. Haas said that the County complied with this condition by developing and submitting a new plan prior to the deadline, however, staff's review indicated the need for additional work. She also said that based on the progress already made, staff recommended that Caroline County be granted an extension from December 31, 2001 to June 30, 2002. She stated that the Plan was completed to the satisfaction of staff and was adopted by the County's Board of Supervisors on February 26, 2002.

Ms. Haas closed her comments noting that at its meeting of March 18, 2002, the Board granted the County a deadline extension in order to provide an opportunity to review the staff report on the adopted plan, and based on the review and analysis provided relative to the previous recommendations that were cited in the preliminary review conducted in 1995, staff believed the amended Plan should be found consistent with the act and the regulations.

Ms. Haas asked if there were any questions. There were none.

Mr. Schroeder called for a motion

Mr. Benser motioned to find Caroline County's Phase II program consistent with §10-1-2109 of the Act and §9VAC10-20-60.C of the Regulations.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**

**June 17, 2002**

**RESOLUTION**

**LOCAL PROGRAM - PHASE II**

**CAROLINE COUNTY - # 46**

**Determination of Consistency – Consistent**

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9VAC10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsection 3 shall be adopted by local governments; and

WHEREAS § 10.1-2103.10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS Caroline County adopted a Comprehensive Plan in June 1995

WHEREAS the Local Program Review Committee for the Northern Area accepted a preliminary staff report on the County's Plan on February 10, 1998 which contained seven conditions that were to be addressed by July 1, 1999; and

WHEREAS on September 27, 1999, the Chesapeake Bay Local Assistance Board granted the County's request for an extension from July 1, 1999 to December 31, 2001; and

WHEREAS on March 18, 2002, the Chesapeake Bay Local Assistance Board granted a second request by the County for an extension from December 31, 2001 to June 30, 2002; and

WHEREAS the Caroline County Board of Supervisors adopted an amended comprehensive plan on February 26, 2002; and

WHEREAS staff has reviewed the Caroline County's amended comprehensive plan and its various components for compliance with the Act and Regulations; and

WHEREAS on May 14, 2002, the Local Review Committee of the Northern Area considered and evaluated the information contained in the staff report and supplemental information provided by the County and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Caroline County's comprehensive plan consistent with § 10.1-2109 of the Act and § 9VAC10-20-60.3 of the Regulations

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on June 17, 2002 by the Chesapeake Bay Local Assistance Board.

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C. Scott Crafton  
Acting Executive Director

Mr. Cowling seconded the motion.

Mr. Schroeder called for further comments. There were none.

Mr. Schroeder called for the vote. All members voted aye.

Mr. Schroeder called for the presentation of Henrico County's Phase II Program

Ms. Rhur introduced Ms. Christine Breddy from Henrico County, and advised that on December 31, 1995, Henrico County's Board of Supervisors adopted the 2010 Comprehensive Plan Update, and in May 1996, the Board found the Plan consistent with two conditions and established a consistency deadline of March 1, 2001. She said at that time, Henrico County requested a deadline extension to March 31, 2002.

Ms. Rhur explained that the two conditions were that the County should consider including maps that indicate sensitive features on the next Plan update, and the Plan would also benefit from a more thorough analysis of the physical constraints to development which describes how the County uses data on sensitive features in developing land and management policies.

She said that the County did add highly erodible soils, highly permeable soils, hydric soils, wetlands overlay, a 100 year flood plain and soil suitability for septic tanks. She said the Plan went on to expand their discussion on sections regarding flood prone areas, tidal and nontidal wetlands, deep slopes, soil suitability for septic tank use.

Ms. Rhur said that the Plan also included a section for land use guidelines for growth and there are guidelines to insure balanced growth in more rural sections of the County. She complimented the detail that the County paid to this section.

She said the second recommendation asked for a 10% reduction in Stormwater pollutant loadings for redevelopment and the second part of this recommendation also consider under taking a study to identify suitable for reestablishment of 100 foot buffer. She said the first part about the 10% reduction staff determined that the recommendation was no longer needed considering the changes to the Regulations, and the second part of the recommendation was also handled during the process of developing the stormwater management program.

Ms. Rhur asked if there were any questions. There were none.

Mr. Schroeder called for a motion.

Ms. Rice motioned to find Henrico County's Phase II program consistent with § 10.1-2109 of the Act and §9VAC10-20-60.3 of the Regulations.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**  
**June 17, 2002**  
**RESOLUTION**  
**LOCAL PROGRAM - PHASE II**  
**HENRICO COUNTY - # 23**  
**Determination of Consistency - Consistent**

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9VAC10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the element in subsection 3 shall be adopted by local governments; and

WHEREAS § 10.1-2103.10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS the Henrico County adopted a Comprehensive Plan in 1995; and

WHEREAS on May 2, 1996 the Chesapeake Bay Local Assistance Board found the Henrico County's plan consistent with two recommendations for consistency that were to be addressed by the County and set a compliance date of March 31, 2002; and

WHEREAS the Board of Supervisors for Henrico County adopted a comprehensive plan on February 12, 2002; and

WHEREAS staff has reviewed Henrico County's comprehensive plan for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on May 14, 2002 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Henrico County's comprehensive plan consistent with § 10.1-2109 of the Act and § 9VAC10-20-60.3 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on June 17, 2002

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C. Scott Crafton  
Acting Executive Director  
Chesapeake Bay Local Assistance Department

Mr. Davis seconded the motion.

Mr. Schroeder called for further comments. There were none.

Mr. Schroeder called for the vote. All members voted aye.

Mr. Schroeder asked Ms. Smith to present the Phase I program for Fairfax County.

Ms. Smith advised that on February 25, 2002, Fairfax adopted the amendments to their Bay ordinance that addressed civil and other penalties, and buffer modification requirements. She said that the County was among the first to develop specific standards for buffer vegetation removal and establishment. She went on to say that these standards included specifics for the removal of trees and other vegetation from the buffer for sight lines, views, vistas, paths, dead or diseased trees or shrubbery, silvicultural thinning, and shoreline erosion.

Ms. Smith noted that the Department is currently working on a buffer area project to develop guidelines for buffer modifications, including sight lines, views, and vistas. She said that because the Department has not yet completed the project, staff had not yet provided guidance to local governments on this subject, and the consistency of these requirements could not yet be determined.

Ms. Smith then commented that the Department was recommending one condition for consistency, and that condition merely required that the County review the final buffer project report and make changes, if any, that were appropriate based on the final report. She said the

Northern Area Review Committee agreed with the recommendation and suggested that the deadline be set for September 30, 2003.

Mr. Crafton pointed out that the date noted in the resolution for completion of the condition needed to read September 30, 2003. Ms. Smith noted the correction.

Mr. Schroeder called for a motion.

Ms. Rice motioned to find the found consistent with §10.1-2109 of the Act and §§9VAC10-20-60.1 of the Regulations subject to one condition that the County undertake and complete the recommendation in the staff report no later than September 30, 2003.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 17, 2002

RESOLUTION

LOCAL PROGRAM, PHASE I

FAIRFAX COUNTY - #32

Major Modification – Conditional

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9VAC10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1(a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS Fairfax County adopted a local program to comply with § 9VAC10-20-60 1 and 2 on March 22, 1993; and

WHEREAS Fairfax County's adopted program was reviewed by the Chesapeake Bay Local Assistance Board on August 19, 1993, and was found consistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations; and

WHEREAS Fairfax County adopted amendments to their program on February 25, 2002 for the purpose of adding specific criteria relating to modifications and violations of the buffer area and to include the civil penalties provision; and

WHEREAS the Chesapeake Bay Local Assistance Board has adopted *Procedural Policies for Local Program Review* which addresses, among other items, review of modifications to local programs previously found consistent; and

WHEREAS staff reviewed the amendments made to Fairfax County's adopted program for consistency with the Act and Regulations; and

WHEREAS on May 14, 2002 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Fairfax County's amended Phase I program consistent with §10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations subject to the following condition that the County undertake and complete the following recommendation no later than September 30, 2003:

1. By September 30, 2003, Fairfax County will review the final report and recommendations of the Departments' buffer project and where appropriate, incorporate amendments to §§ 118-3-3(d)(1) – (4) of the County's Chesapeake Bay Preservation Ordinance.

BE IT FINALLY RESOLVED that failure by Fairfax County to meet the above established compliance date of September 30, 2003 will result in the local program becoming inconsistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60.1 and 2 of the Regulations and subject Fairfax County to the compliance provisions as set forth in §10.1-2103.10 of the Act and §9VAC10-20-250 of the Regulations.

The Director of the Chesapeake Bay Local Assistance Department certifies that this resolution was adopted in open session on June 17, 2002 by the Chesapeake Bay Local Assistance Board.

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C. Scott Crafton  
Acting Executive Director  
Chesapeake Bay Local Assistance Department

Mr. Nice seconded the motion.

Mr. Schroeder called for further comments. There were none.

Mr. Schroeder called for the vote. All members voted aye.

Mr. Schroeder thanked Ms. Smith for providing Fairfax County's report.

Mr. Schroeder called for the Review of Board Sponsored Activities and recognized Lee Tyson to present an Update on Local Program Implementation Review Procedures.

Mr. Tyson advised that staff had been working on developing a compliance evaluation procedure for all 84 localities for some time. He said that staff had things pretty well hammered out to staff's satisfaction and farmed all of this information out to all localities and planning district commissions, the VML and VACO to consider the draft policies.

A local advisory committee, made up of three representatives from Northern, Central, Tidewater and Eastern Shore regions, also reviewed the materials and provided comments. He said that staff took the comments and discovered that the overriding comment coming back to staff was that the statistical information that staff wanted could not be provided by the localities. He said that the responses indicated that localities did not have counts of building permits, areas of imperviousness, exceptions and do not track those on any quantifiable basis. He also said that the response indicated that in order to do as requested would be a huge resource drain on the localities.

Mr. Tyson said that based on this information, the Policy Committee decided to focus on field investigations, and staff would now go out and do field investigations on site plans, construction projects to see if BMPs have been installed correctly and maintained, and focus on existing conditions and if those conditions bring up ideas about going back into the program and doing an examination, staff would still be able to do that. He said the compliance evaluation procedures that were anticipated where localities report building permit numbers and impervious areas will be folded into the annual reporting requirement that is in the new Regulations. The Department of Environmental Quality (DEQ) and the Department of Conservation & Recreation (DCR) are planning to do annual reporting requirements of their own and to the extent possible all agencies are going to provide that localities have one set of reporting requirements for each of the three agencies. He said staff envisions that software will be sent to the localities and all they would have to do is fill in the blanks and report once a year. He said there is no need for the localities to have to provide software.

Mr. Tyson stated that staff believed their method would provide the agency with a means to see whether the localities are meeting the performance criteria, however, the focus is going to be to work with the ground conditions. He said that the revised Compliance Evaluation Procedures are going to the Policy Committee in July for another review and it is anticipated that the final procedures will be provided to the Board for final determination by the September 16, 2002 Board meeting, and compliance evaluation would begin soon thereafter.

Mr. Tyson asked if there were any questions.

Mr. Crafton asked for clarification about working with DEQ and DCR and finding a set of reporting requirements so that local government would have one set of reporting procedures for each of the three agencies. He asked if he understood that there would be only one report and not three.

Mr. Tyson responded affirmatively, and that there would be parts that neither DCR nor DEQ had any interest in.

Mr. Crafton responded that he was aware of the importance of having just one report for the localities to complete that served the need.

Mr. Schroeder complimented Mr. Tyson on his report.

Mr. Schroeder recognized Mr. Scott Crafton for the discussion regarding Regulatory Guidance under Development.

Mr. Crafton provided information regarding the compliance guidance advising that staff has been working on the development of new guidance to be distributed to local governments to aid in the interpretation and implementation of the new Regulations, and the draft guidance has been developed on the following issues; Wetlands Protection and Mitigation, Nonconforming Structures and Uses, Stormwater Management Requirements, Silvicultural Operations, Exceptions, Resource

Protection Area: Onsite Buffer Area Delineation, Resource Protection Area Buffer Area Encroachments, and Intensely Developed Areas.

Mr. Crafton noted that this information had been posted on the website, and welcomed comments. He said that this first series of guidance has been developed with input from members of local government advisory committees and among all internal staff. He said the process will be for the Board's Policy Committee to consider the guidance at the July 24, 2002 meeting, along with the Local Implementation Review Procedures, and they will be considering having the Board accept the guidance at the September meeting.

Mr. Crafton went on to say that staff is currently working on another set of guidance documents that will be completed in late summer or early fall and will be going through a similar Policy Review Committee and come back to the full Board in December. He said that the intent is to have all of these guidance documents, with the exception of one or two, distributed to local governments by the end of the year before they start amending their ordinances.

Mr. Crafton asked that members who are not on the Policy Committee review the documents and provide comments to the members of the Policy Committee prior to the July 24, 2002 meeting.

Mr. Davis asked if they could review the Committee assignments, and expand somewhat on these assignments. Mr. Crafton responded positively.

Mr. Davis then expressed his concern that the topics that Mr. Crafton noted earlier were serious topics and he hoped that the members would spend enough time considering the guidance. Ms. Rice agreed that member's input was very important.

Mr. Crafton said that any member of the Board could attend the meetings and he would check in advance of the July meeting to see who would be attending.

Mr. Davis complimented staff for the efforts to provide regulatory guidance to the localities.

Mr. Schroeder called for New Business. There was none.

Mr. Schroeder called for Public Comment. There was none.

Mr. Schroeder called for a motion to adjourn the meeting.

Mr. Cowling motioned to adjourn and Mr. Bannach seconded.

The meeting was adjourned at 11:15 p.m.

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L. Clifford Schroeder  
Chairman

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C. Scott Crafton  
Acting Executive Director